

The EU-China investment agreement: a step in the right direction

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The announcement of an investment agreement between the EU and China (EU-China Comprehensive Agreement on Investment, or CAI) on 30 December has generated a huge controversy. Although it is still premature to reach a conclusive assessment, among other things because the text has not yet been made public, there has been considerable and vehement criticism against Europe's diplomacy for having signed it, even from within the Community's institutions themselves. As the agreement has yet to be ratified, it seems important to contribute to a more dispassionate debate, by highlighting some of its apparent achievements from the perspective of the EU's interests and values, and by nuancing some of the arguments that have been repeatedly raised against it.

Starting with **the achievements**, and for now based only on the explanatory notes issued by the European Commission, it can be unequivocally stated, indeed, that this is the 'most ambitious agreement China has concluded with a third country' or group of countries to open up its economy. Therefore, the progress achieved for the EU's economic interests is by no means negligible. According to the Commission itself, the agreement introduces: (1) rules against forced technology transfers; (2) new obligations for the *modus operandi* of Chinese state-owned companies; (3)

greater transparency on public subsidies; (4) unprecedented Chinese commitment to sustainable development (at the labour and environmental levels); (5) safeguards for the current liberalisation of the Chinese economy to avoid any possible backsliding; (6) a state-to-state dispute resolution mechanism; and (7) the elimination or reduction of quantitative restrictions, equity caps or joint venture requirements in a number of sectors.

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In the manufacturing sector, the Commission goes so far as to say that 'in terms of the level of ambition [China's market access commitments] would match the EU's openness', which would bring us closer to the much sought reciprocity. Furthermore, in the services sector, China will provide greater market access, among others, in the following fields: finance, health, biological research, telecommunications and cloud services, computer services, international maritime transport, air transport, various business services (such as real estate, market research, consulting and translation), environmental services, construction services, and the hiring of EU managers and specialists (for details see this

document of the European Commission, the most informative published so far). In all of them, new business opportunities should arise for Spanish companies.

Looking now at **the arguments against the CAI**, the haste with which the agreement has been concluded in the past month and the German impetus to do so have been questioned and presented as irrefutable evidence that the agreement is contrary to the EU's strategic interests and values, which would therefore be sacrificed to a particular German economic agenda.

It is true that, at the beginning of December, it still seemed impossible to achieve the objective set during the 21st EU-China Summit of April 2019 to conclude an investment agreement in 2020, as the Commission deemed that the commitments made by China were clearly insufficient. Likewise, although it has been the rapid and sudden change of position of the Chinese authorities that has facilitated the agreement, it is difficult to understand that, without any hard deadline and after more than seven years and 35 rounds of negotiations, the Commission barely gave the member states 48 hours to scrutinise the agreement. What's more, first-hand sources familiar with the subject point out that the key factors to explain this short deadline have been Germany's interest in closing the agreement before the end of its presidency of the European Council, and the interest of the Commission in signing it before the arrival of the new US Administration might substantially delay it. The presence of French President Macron at the meeting prior to the signing of the agreement has also generated discomfort in many European capitals. However, to argue on this basis that the CAI is a strategic error made by a myopic EU, hijacked, above all, by German, but also French, economic interests, which will make greater transatlantic cooperation impossible after the inauguration of Joe Biden, and internationally whitewash a regime that commits massive human rights violations, is a conceptual leap that is difficult to justify.

The CAI is the reflection of the EU's strategy towards China, which identifies Beijing as a partner, a competitor and a rival, but not as an enemy. As detailed in a collective work published last year by the European Think-tank Network on China (ETNC), the EU and all its member states (not just Germany and France) are fundamentally attracted by the size and dynamism of China's economy and by its specific weight in several major global issues such as the fight against climate change and nuclear proliferation, and they are willing to further increase their ties with China. But not at any price. Deeper EU-China relations are conditioned to their incorporation under a normative framework that safeguards European values and interests. The CAI is not a half-way compromise under which the EU and China will commit to almost equivalent regulatory adjustments, it is China that has to make the changes.

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Furthermore, although the CAI can be interpreted as a reflection of an increased European strategic autonomy ambition (it is better to have a joint agreement with China than 27 bilateral investment agreements to avoid an attempt to 'divide and conquer', and the EU has decided not to wait for Washington to sign it), it does not imply a blow to

greater transatlantic cooperation. Whether or not the CAI is ratified, the coordination between the US and the EU on policies towards China –which should not be understood as an end in itself, but as a means of defending our interests and values– will only depend on the willingness to cooperate on both sides of the Atlantic, not on the preferences of Beijing. Moreover, the CAI does not include elements harmful to US national interests or prevent a multitude of issues on which coordination will be beneficial to Washington and Brussels (outlined in a recent paper by the Commission titled *A new EU-US agenda for global change*), and it even incorporates elements that are common to Biden’s agenda (among others: human rights, sustainability and more transparency from China).

Similarly, there is no indication that with this agreement the EU renounces to keep improving the human rights situation in China or to apply defensive measures against China’s economic practices that it considers abusive. On the contrary, initiatives have been taken in recent months that point towards a tougher and more strategic position, such as the adoption of a global human rights sanctions regime to be able to punish those responsible for human rights

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violations worldwide, the entry into operation of the EU framework for screening of foreign direct investments that may affect European security and public order, the publication of guidelines to guarantee the security of 5G networks, and the preparation of a white paper on foreign subsidies.

In conclusion, although it does not meet all European demands and there remains a huge normative gap between the two parties (China will continue to have an authoritarian political regime and embrace state capitalism), the CAI seems to be a step in the right direction by offering a normative framework that better defends the EU’s interests and values in its relations with China. Furthermore, it is an agreement that potentially has positive multilateral implications, as its implementation should make China a more open and less opaque country, with higher environmental and labour standards. It is true that this would depend on how the agreement is implemented once it is ratified. This would not be the first time China disappoints when it comes to implementing its international commitments. Hence, the introduction of certain enforcement mechanisms should also be viewed positively, for example, in the sections on sustainable development, as well as the fact that the final scope of the agreement is determined by the level of implementation by the parties, and that the EU has not made geostrategic or normative concessions. On the contrary, despite its limitations, the CAI once again demonstrates to the world that the EU’s normative power is greater than many may assume.